

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

ENTERED

SEP 26 2005

TERESA L. DEPPNER, CLERK
U.S. District & Bankruptcy Courts
Southern District of West Virginia

PIEDMONT BEHAVIORAL HEALTH
CENTER, LLC, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 2:04-cv-946

DAVID STEWART, et al.,

Defendants.

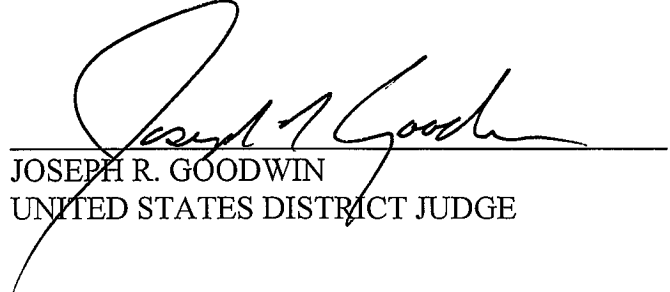
ORDER

Pending before the court is Plaintiffs' Motion to Strike Defendant Dr. David Stewart's Motion to Dismiss Filed in his Individual Capacity and his Motion for Joinder in Defendants' Motion to Dismiss (filed as one document) [Docket 30] and Defendant Dr. Stewart's Motion to Join in Defendants' Motion to Dismiss [Docket 22]. Plaintiffs contend that counsel filed Dr. Stewart's Motion to Dismiss and Motion for Joinder [Docket 22] beyond the time period provided by Federal Rule of Civil Procedure 12 and a Stipulated Order.

On December 16, 2004, the court entered an Agreed Order [Docket 33] finding that Dr. Stewart's Motion to Dismiss and Motion for Joinder [Docket 22] represents a timely filed pleading filed in response to plaintiffs' individual capacity 42 U.S.C. Section 1983 claim. Accordingly, the court **FINDS** that Dr. Stewart timely filed his Motion to Dismiss and Motion for Joinder in Defendants' Motion to Dismiss and **DENIES** Plaintiffs' Motion to Strike [Docket 30]. Additionally, the court **GRANTS** Dr. Stewart's Motion for Joinder in Defendants' Motion to Dismiss [Docket 22].

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: September 26, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE